

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the matter of	)	
	)	
Federal-State Joint Board on Universal	)	CC Docket No. 96-45
Service	)	

**REPLY COMMENTS OF  
VALOR TELECOMMUNICATIONS ENTERPRISES, LLC**

Valor Telecommunications Enterprises, LLC (Valor)<sup>1</sup> submits the following reply comments in response to the Federal Communication Commission's (FCC or Commission) request for comments on the Recommended Decision of the Federal-State Joint Board regarding whether the FCC should modify the list of telecommunications services eligible for universal service fund (USF) support.<sup>2</sup> The Joint Board generally recommended that the FCC not modify the existing list of services supported by universal service, however the Joint Board was unable to reach agreement on whether equal access should be added to the list of supported services. Valor, in its initial comments in this proceeding supported the addition of equal access to the list of supported services.<sup>3</sup> Valor also suggested that advanced or high-speed services would never be able to adequately be deployed in rural areas absent regulatory intervention.<sup>4</sup> Valor continues to

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<sup>1</sup> Valor is a privately owned company, formed for the purpose of purchasing approximately 550,000 mostly rural access lines from GTE (now Verizon) in Texas, Oklahoma, New Mexico and Arkansas. These properties were acquired in 2000, and in 2002 Valor acquired Kerrville Communications Corporation, whose wholly owned subsidiary Kerrville Telephone, L.P. also serves rural customers in Texas.

<sup>2</sup> Notice of Proposed Rulemaking rel. Feb. 25, 2003

<sup>3</sup> Valor Comments at p. 2 and 3.

<sup>4</sup> Valor Comments at p. 6.

support these positions in these reply comments and will also address two additional issues discussed in the comments of SBC and the Montana Universal Service Task Force (MUST), respectively. First, Valor disagrees with SBC's suggestion that the Commission should re-evaluate whether the definition of universal service should include non-primary residential lines and business lines.<sup>5</sup> Second, Valor agrees with the concerns expressed by MUST that the FCC should take the lead on establishing a minimal level of technical and service quality standards for eligible telecommunications carriers (ETCs).<sup>6</sup>

## **DISCUSSION**

### **Equal Access**

Valor repeats its observation, which was made in the initial comments that the issue of whether to include equal access as a supported service is divided along wireline versus wireless carrier lines. The positions of the commenting parties demonstrate this divide. The wireless carriers continue to seek to hang onto every regulatory advantage regardless of the customer impact. The wireless carriers claim that adding equal access to the definition of universal service would harm consumers.<sup>7</sup> However, the position of The National Association of State Regulatory Utility Consumer Advocates (NASUCA), the primary consumer group filing comments in this proceeding, undercuts the alleged consumer benefit supporting the wireless industry position. NASUCA argues that the public interest supports the addition of equal access to the list of supported services.<sup>8</sup> The

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<sup>5</sup> SBC Comments at p. 9.

<sup>6</sup> MUST Comments at p. 9.

<sup>7</sup> Cellular Telecommunications & Internet Association (CTIA) Comments at p. 8, Nextel Comments at p. 12, Western Wireless Corporation Comments at p. 3.

<sup>8</sup> The National Association of State Utility Consumer Advocates Comments at p. 3.

Commission should see through the veiled arguments of the wireless industry. The FCC should not allow wireless carriers voluntarily seeking ETC status to continue an unfair regulatory advantage over wireline carriers.

### **Advanced or High-Speed Services**

Nearly all the parties' initial comments suggested that advanced services should not be added to the list of supported services. However, Valor joins in the concerns expressed by the National Telecommunications Cooperative Association (NTCA) that suggested that the Commission should consider creative ways to increase advanced services deployment, particularly in less densely populated areas.<sup>9</sup> Commissioner Martin had expressed a similar concern regarding the need to promote investment in rural America's infrastructure. He stated, "[a] further Notice at this time would assist the Commission in its continuing effort to ensure that all Americans, including those in rural and high cost areas, have access to these services."<sup>10</sup> Valor suggests that the further Notice recommended by Commissioner Martin would be an appropriate forum to examine the suggestion proposed by the NTCA and develop creative incentives to ensure advanced service deployment in rural areas.

### **SBC's Non-Primary Residence and Business Line Recommendation Should Be Rejected**

SBC's requested the Commission to re-evaluate whether the definition of universal service should include non-primary residential lines and business lines.<sup>11</sup>

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<sup>9</sup> National Telecommunications Cooperative Association Comments at p. 7.

<sup>10</sup> Joint Board Recommended Decision (rel. July 10, 2002), Separate Statement of Commissioner Kevin J. Martin Approving in Part and Concurring in Part, at p. 54.

<sup>11</sup> SBC Comments at p. 9.

SBC's comments acknowledge that the Commission should not make any change in this definition without a broader reform of federal and state mechanisms to allow carriers to recover their costs through their rates. Valor believes that SBC's recommendation is merely an attempt to reduce the size of the fund without recognition of the adverse rate impact on rural customers. Eliminating support for non-primary residence and business lines would only adversely impact high-cost carriers and their customers, since they are the only ones receiving support today. SBC, like most of the large urban carriers, receives little to no high-cost support, since they overall do not serve rural high-cost areas. Therefore, eliminating support for non-primary residence and business lines would have little impact on the larger carriers. However, the elimination of this support for the smaller rural carriers would have severe repercussions, since these carriers receive a proportionally much larger percent of their total revenue from the high-cost mechanisms.

SBC acknowledges that the elimination of the support needs to be offset by appropriate rate recovery. However, the resulting impact could cause rural carriers rates to increase by amounts that would be contrary to the principles established in section 254 (b) of the Act, which requires rural customers rates to be reasonably comparable to those of their urban counterparts. The plain terms of section 254(b) make it unlikely that Congress intended that residence second line customers and businesses pay the entire cost of universal service in high-cost areas, as suggested by SBC.

### **Technical and Service Quality Standards**

The Montana Universal Service Task Force (MUST) suggests that the Commission establish minimum technical and service quality standards in order to avoid pushing service quality for ETCs to the lowest common denominator. It also argues that

competitive neutrality requires a level playing field including service quality expectations.<sup>12</sup>

The vast majority of wireline ETCs have minimum service standards, which are imposed by state commissions. Wireless ETCs do not have similar state imposed standards. The support that wireless ETCs receive is based upon the “cost” of the incumbent ETC, which inherently is built upon the cost to meet the state imposed standards. Therefore, wireless ETCs have the opportunity to incur less cost due to no imposed standards, yet receive support as if they had incurred cost to meet the state commission’s standards. The Commission need to address and correct this cost and regulatory advantage for wireless ETCs.

## **CONCLUSION**

Valor supports the position of the members of the Joint Board who support the inclusion of equal access as a defined service that receives universal service support. By including equal access, the Commission will bring the additional benefits of interexchange carrier competition to the customers served by competitive eligible telecommunications carriers and it would eliminate one of the unfair regulatory advantages that wireless carriers have over wireline carriers. Valor also agrees with the comments of the NTCA and the statement of Commissioner Martin that the FCC needs to initiate proceedings and develop policies that will foster the deployment of advanced services in rural and low-density areas. The Commission should reject SBC’s suggestion to re-evaluate whether to eliminate support for non-primary residential and business lines. The potential adverse impact to rural high-cost area customers is not in the public

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<sup>12</sup> MUST Comments at p. 9.

interest. Last, MUST's recommendation that the FCC establish of a minimum level of service standards merits further consideration.

Respectfully submitted,

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